Found in Clerks Certified Record Vol. 2. p. 328
14020-14028

UNITED STATES COURT FOR THE EASTERN

DISTRICT OF WASHINGTON
NORTHERN DIVISION

No. B-7848

In the Matter of
S. P. BEECHER, *Farm Debtor*

ORDER DENYING "SPECIAL APPEARANCE BY FARM DEBTOR REQUESTING BUSINESS AND LEGAL PAPERS"

The above matter having come on before the Court, for hearing on May 16, 1953. The Farm Debtor appearing in person, C. D. Randall appearing for the Leavenworth State Bank, Henry R. Newton appearing for the Federal Land Bank, John R. Ripple appearing for the Trustee, and the Court having fully considered said matter and, being fully advised in the premises now, therefore, it is hereby ordered that the "Special Appearance by Farm Debtor Requesting Business and Legal Papers." be and same is hereby denied.

Dated June 5, 1953.

SAM M. DRIVER
U. S. Judge

Filed June 5, 1953.

Copies Mailed to
C. D. Randall
Henry R. Newton
John J. Ripple
S. P. Beecher.

SUPREME COURT OF THE UNITED STATES

No. ....., October Term, 1951.

S. P. Beecher, *Petitioner,*

vs.

The Leavenworth State Bank, Et Al.

(No. 12,084-G in the United States Court of Appeals for the Ninth Circuit.)

Order Extending Time to File Petition for Writ of Certiorari

Upon Consideration of the application of counsel for petitioner(s),

It Is Ordered that the time for filing petition for writ of certiorari in the above-entitled cause be, and the same is hereby, extended to and including April 12, 1952.

It Is Further Ordered, that execution and enforcement of the judgment of the United States Court of Appeals for the Ninth Circuit in case No. 12,084-G be, and the same is hereby, stayed pending the filing and disposition of the petition for writ of certiorari.

s/ Wm. O. Douglas
Associate Justice of the Supreme Court of the United States.

Dated this 2nd day of January, 1952

Affidavit of Service by Mail

S. P. Beecher being first duly sworn on oath deposes and says that service by mail was had on the hereafter named parties in the following manner; by placing copies of the attached Petition for Writ of Certiorari to the Supreme Court of the United States in separately sealed and addressed envelopes Air Mail Postage paid in full in the United States mailbox in Washington, D. C. on the 15th day of April 1955, to the hereafter named parties at their several addresses: Paul P. O'Brien, Clerk of the U. S. Court of Appeals, P.O. Box 547, San Francisco, California; To: Stanley D. Taylor, Clerk of the U. S. District Court, P.O. Box 1493, Spokane, Washington; Randall & Danskin, 1017 Paulsen Building, Spokane, Washington, Attorneys for the Leavenworth State Bank, Federal Land Bank of Spokane, Spokane, Washington; John J. Ripple, 1705 North Division St., Spokane, Washington. Attorney for Homer Smithson; John McCoy, Peshastin, Washington; Lyle Timpe, Peshastin, Washington; Leavenworth Fruit Company, Leavenworth, Washington; Eagle Transfer and Storage Company, Wenatchee, Washington, and Ben Maxwell, 2421 Altman St., Los Angeles, California.

S. P. Beecher,
Petitioner.

Subscribed and sworn to before me this ..... day of April, 1955.

.....
Notary Public in and for the District of Columbia residing in Washington.

Office - Supreme Court, U.
FILED
APR 16 1955
HAROLD B. WILLEY, Cle

IN THE

Supreme Court of the United States

OCTOBER TERM, 1954

No. 728

In the matter of S. P. BEECHER, Farm Debtor under Section 75 of the Bankruptcy Act.

No. B-7848

S. P. BEECHER, Farm Debtor, *Petitioner*,

v.

LEAVENWORTH STATE BANK, a corporation; FEDERAL LAND BANK, a corporation; HOMER SMITHSON, as Trustee and individually; JOHN McCOY, as a director of the Leavenworth State Bank and individually; LYLE TIMPE, individually; BEN. MAXWELL, individually; LEAVENWORTH FRUIT CO., a Cooperative Co.; EAGLE TRANSFER AND STORAGE COMPANY, a corporation, *Respondents*.

MOTION TO PLACE PETITIONER, FORTHWITH, IN POSSESSION OF THE REAL PROPERTY AND PERSONAL EXEMPTIONS INVOLVED IN THESE PROCEEDINGS AND ORDER AN ACCOUNTING UNDER THE PROVISIONS OF THE BANKRUPTCY ACT AND UNDER THE LAWS OF THE STATE OF WASHINGTON

PRESENTED BY

S. P. BEECHER,
Petitioner herein,
Cashmere, Washington.

PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1954

No.

In the matter of S. P. BEECHER, Farm Debtor
under Section 75 of the Bankruptcy Act.

No. B-7848

S. P. BEECHER, Farm Debtor, *Petitioner,*

v.

LEAVENWORTH STATE BANK, a corporation; FEDERAL LAND BANK, a corporation; HOMER SMITHSON, as Trustee and individually; JOHN McCOY, as a director of the Leavenworth State Bank and individually; LYLE TIMPE, individually; BEN. MAXWELL, individually; LEAVENWORTH FRUIT CO., a Cooperative Co.; EAGLE TRANSFER AND STORAGE COMPANY, a corporation, *Respondents.*

MOTION TO PLACE PETITIONER, FORTHWITH, IN POSSESSION OF THE REAL PROPERTY AND PERSONAL EXEMPTIONS INVOLVED IN THESE PROCEEDINGS AND ORDER AN ACCOUNTING UNDER THE PROVISIONS OF THE BANKRUPTCY ACT AND UNDER THE LAWS OF THE STATE OF WASHINGTON

To the Honorable the Justices of the Supreme Court of the United States.

The undersigned, the petitioner herein, prays the Court, for the immediate return to possession of the real and personal exemptions involved in these proceedings.

Petitioner is an old man, 82 years old, and a layman without legal experience, except such as he has been able to acquire in these proceedings.

He has spent his years since 1906, developing his home, which by hard work and a lifetime association and interest therein has become dear to him.

A man of his years, if he is going to get any further enjoyment out of it must have immediate possession.

The record shows that the creditors acknowledged that there was money available to pay every dollar he owed. See Tr. 12084, Vol. 1, p. 126, Appendix, p. 30a (date May 7, 1947).

The record also shows that Petitioner pleaded with the Court to make this money available to liquidate his debts. See Tr. 12084, Vol. 1, p. 47, Appendix p. 29a. The record further shows that on August 4, 1947 Petitioner, acting in good faith on the assurances of the creditors, deposited in Court the original appraised value of the real property $9,170.00. The record further shows that both secured creditors acknowledged this as being a step in the liquidation of their indebtedness. See Tr. 12084, Vol. 1, pp. 215-220.

The record further shows that the balance of this money that the creditors acknowledged was available to liquidate their debts was, on the Court's own motion, ordered into the registry of the Court. See Clerk of the District Court's Cash Record (Appendix p. 16a), itemized as follows: August 4, 1947, S. P. Beecher, Tender for redemption, $9,170.00; October 2, 1947, S. P. Beecher, Tender of Redemption of personal property, $1,000.00; June 16, 1949, J. M. Wade Co., Replace check No. 5020—$4328.74; June 16, 1949, Ck. No. 6244—$1,000.00; Ck. No. 6423—$1,500.00; June 16, 1949, Bal. open account—$2734.43; June 6, 1952, Geo. Fasken crop proceeds, $8,000.00 (Appendix p. 17a).

A total of $27,733.17 against a total appraisal of $25,550 required for redemption—over $2,000.00 in excess of the amount required. An accounting under the provisions of the Act and the laws of the State of Washington and Gen-

eral Order 10, will develop further thousands belonging to the farmer debtor.

Section 75(s)(4) of the Bankruptcy Act reads as follows:

> "* * * No additional fees or costs of administration or supervision of any kind shall be charged to the farmer debtor when or after he amends his petition or answer, asking to be adjudged a bankrupt under this subsection, but all such additional filing fees or costs of administration or supervision shall be charged against the bankruptcy estate. * * *"

General Order No. 10, reads as follows:

> INDEMNITY FOR EXPENSES.
>
> "Before incurring any expense in publishing or mailing notices, or in traveling, or in procuring the attendance of witnesses, or in perpetuating the testimony, the clerk, marshal or referee may require from the bankrupt, debtor, or other person in whose behalf the duty is to be performed, indemnity for such expense. *Money advanced for this purpose by the bankrupt, debtor or other person shall be repaid him out of the estate as part of the cost of administering the same.*"

Petitioner has petitioned the District Court and the Conciliation Commissioner several times for this accounting and has ben denied. See Petition for Writ of Certiorari (Appendix p. 36a, Item No. 5. Denied).

There are other costs to be determined and allowed from the estate before disbursement to creditors.

> SECTION 64. DEBTS WHICH HAVE PRIORITY.
>
> "The debts to have priority, *in advance of the payment of dividends to creditors*, and to be paid in full out of bankrupt estates, and the order of payment, shall be (1) the actual and necessary costs and expenses of preserving the estate subsequent to filing the petition: The filing fees paid by creditors in involuntary cases; where the property of the bankrupt, transferred or concealed by him either before or after the filing of the petition, shall have been recovered for the benefit of the

estate of the bankrupt by the efforts and at the cost and expense of one or more creditors, the reasonable cost and expense of such recovery; the costs and expense of administration, including the trustees expenses as now or hereafter provided by the laws of the United States, and one reasonable attorney's fee for the professional services actually rendered, irrespective of the number of attorneys to the petitioning creditors in involuntary cases *and to the bankrupt in voluntary and involuntary cases,* as the court may allow; * * * (4) *taxes legally due and owing by the bankrupt to the United States or any State or any subdivision thereof;* * * *."*

WHEREFORE, Petitioner respectfully prays the Court, that Petitioner be summarily restored to the possession of his real property and his personal exemptions, and that an accounting be ordered under the provisions of the Bankruptcy Act and under the provisions of the State of Washington, Remington's Revised Code Nos. 602, and 804, and for such further relief as justice demands.

Respectfully submitted,

S. P. BEECHER,
Petitioner and Farm Debtor,
Cashmere, Washington.

Affidavit of Service by Mail

S. P. Beecher being first duly sworn on oath deposes and says that service by mail was had on the hereafter named parties in the following manner; by placing copies of the attached motion in separately sealed and addressed envelopes Air Mail Postage paid in full in the United States mailbox in Washington, D. C. on the ~~29th day of March~~ April 15th 1955, to the hereafter named parties at their several addresses: Paul P. O'Brien, Clerk of the U. S. Court of Appeals, P.O. Box 547, San Francisco, California; To: Stanley D. Taylor, Clerk of the U. S. District Court, P.O. Box 1493, Spokane, Washington; Randall & Danskin, 1017 Paulsen Building, Spokane, Washington, Attorneys for the Leavenworth State Bank, Federal Land Bank of Spokane, Spokane, Washington; John J. Ripple, 1705 North Division St., Spokane, Washington. Attorney for Homer Smithson; John McCoy, Peshastin, Washington; Lyle Timpe, Peshastin, Washington; Leavenworth Fruit Company, Leavenworth, Washington; Eagle Transfer and Storage Company, Wenatchee, Washington, and Ben Maxwell, 2421 Altman St., Los Angeles, California.

S. P. BEECHER,
Petitioner.

Subscribed and sworn to before me this 15th day of April, 1955.

.....
Notary Public in and for the District of Columbia residing in Washington.